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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/598,110	06/21/00	PULLARO	T

EXAMINER	
HUNTER, A	
ART UNIT	**PAPER NUMBER**
3711	9

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/598,110	PULLARO, TERRY	
	Examiner	Art Unit	
	Alvin A. Hunter	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 June 2000* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 2-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fazio et al. (USPN 4982963) in view of Wendt (4444396) and OFFICIAL NOTICE.

Fazio et al. discloses a golf club swinging device (10) comprising a head member (40), a shaft (30), and a grip member (20)(See Abstract). The grip member (20) is attached to the other end of the shaft (30) and is adjustable along the shaft (30) to simulate different style golf clubs (See Figure 1 and Column 3, lines 40 through 54). The grip member (20) is the equivalent of that of the graspable portion on a golf club and makes the device capable of having the grip member (20) at any distance from the head member (40). Fazio et al. failed to disclose the device weighting more than the sport implement, and the weight and handle having internal and external threads. Wendt discloses a weighted golf swing exercise club with the cylinder (60) for attached weights to a shaft (14) that has threaded connections (See Figure 4 and Column 3, lines 37 through 50). Internal thread naturally mate with external threads and is merely an attaching means. Wendt also discloses that the exercise club weights more than a regulation golf club (See Column 2, lines 36 through 60). Furthermore, by having

different types handles attached to the weight, one can assume that the device could be applied to train for other sports using swinging implements.

OFFICIAL NOTICE is taken that center of mass of and object depends on its size, shape, and weight. OFICIAL NOTICE is also taken that having a device with interchangeable parts enables the device to be used for other situations.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was to provide Fazio et al. with a center of mass at least 13 inches away from the end of the handle as taught by the OFFICIAL NOTICE in order to balance the weight attached to the handle. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Fazio et al. with a variety of handles as taught by the OFFICIAL NOTICE in order to use the device for other sport that involve swinging implements. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have the handle less than 10 inches as taught by the OFFICIAL NOTICE in order to balance the weight of the invention. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Fazio et al. to have a weight with a diameter of less than 4 inches as taught by the OFFICIAL NOTICE in order to provide adequate placement for the center of mass the invention. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Fazio et al. with a handle and weight having internal and external threads as taught by Wendt in order to provide the device with a means for attaching and detaching different types of handles or weights to the invention. Furthermore, it would have been

obvious to one having ordinary skill in the art at the time the invention was made to have the invention of Fazio et al. to weight more than the actual sport implement as taught by Wendt in order to increase the muscle strength of the user.

Response to Arguments

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

In the response filed June 14, 2001, the applicant argues that Wheatley, used to reject claims 2, 3, and 14, do not teach a center of mass least than 16 to 18 inches or 13 inches from the free end of the handle; that Beach, used to reject claims 9 and 13, does not teach a center of mass less than 13 inches or a hockey stick grip; and that Marquez, used to reject claims 10 and 11, does not teach a center of mass less than 13 inches.

In response the examiner disagrees to the applicant thoughts. In the Fundamentals of Physics, Fourth Edition, written by Halliday-Resnick-Walker, the center of mass is defined as the balancing point of an object (See p.226). For one to state that Wheatley does not teach or suggest a center of mass must have been made erroneously. The applicant also stated that the center of mass was less than 16 to 18 inches. In the MPEP 2144.05 I, the use of overlapping ranges is disclosed and clearly shows that the use Wheatley was proper. One skilled in the art should already know that the center of mass is related to the distance of an object from a point. One does not need a scale drawing to see that the handgrip is approximately half the length of the balancing point. Comments pertaining the handgrip relative to the balancing point were

made to add substance to the response. Beach does not have to show the use of a hockey stick handle to show obviousness. Any one can clearly see that the handle substitutions were merely to accommodate the training of other sports, therefore, the use of Beach and Marquez were also proper. Since, the applicant has amended the claims, the above office action has been furnished.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeanette Chapman, can be reached on (703) 308-1310. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

JEANETTE CHAPMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700